



Legislative Assembly of the Northern Territory

Legislative Scrutiny Committee

Inquiry into the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026

October 2026



Inquiry into the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026



Legislative Assembly of the Northern Territory

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Chair's Preface

This report details the Committee's findings regarding its examination of the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026. The Bill amends the *Building Act 1993*, the *Building Regulations 1993*, the *Place Names Act 1967*, the *Planning Act 1999*, the *Valuation of Land Act 1963*, and repeals the *Valuation of Land Regulations 1981*. In doing so, the Bill seeks to increase efficiencies in administration, modernise regulatory functions, implement a risk-based regulatory approach, reduce approval timeframes, and provide certainty in decision-making.

The Committee received 10 submissions to its inquiry, all of which supported the policy intent of the Bill. However, a number of concerns were raised and clarification was sought regarding the intended operation of various provisions within the Bill. Following its examination of the Bill, the Committee has recommended that the Assembly pass the Bill with the proposed amendments as set out in recommendations 2 to 11.

In accordance with its Terms of Reference, the Committee's recommendations seek to ensure that the provisions in the Bill are consistent with principles of natural justice, provide appropriate protection against self-incrimination, and are unambiguous and drafted in a sufficiently clear and precise way.

On behalf of the Committee, I would like to thank all those that provided submissions to the Committee's inquiry, and the Department of Lands, Planning and the Environment for briefing the Committee and providing advice regarding issues raised in submissions. The Committee also thanks Professor Aughterson for his advice. Finally, I would like to thank my fellow Committee members for their bipartisan commitment to the legislative review process.



Mrs Oly Carlson MLA
Chair

Committee Members

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Acknowledgments

The Committee acknowledges all those that provided written submissions to its inquiry and thanks them for their contribution. The Committee also thanks the representatives from the Department of Lands, Planning and Environment for briefing the Committee and providing advice regarding issues raised in submissions.

Acronyms and Abbreviations

AIBS	Australian Institute of Building Surveyors
AINT	Aboriginal Investment NT
BAC	Northern Territory Building Advisory Committee
BPB	Northern Territory Building Practitioners Board
Building Act Committee	<i>Building Act 1993</i> (NT) Legislative Scrutiny Committee
Department	Department of Lands, Planning and Environment
LC	Litchfield Council
LBCNT	Local Building Certifiers of the Northern Territory
MOB	MOB Building Certifiers Pty Ltd
NAWIC	National Association of Women in Construction
NCC	National Construction Code
NTFRS	Northern Territory Fire and Rescue Service
NTPC	Northern Territory Planning Commission
Place Names Act	<i>Place Names Act 1967</i> (NT)
Planning Act	<i>Planning Act 1999</i> (NT)
Regulations	Building Regulations 1993 (NT)
Territory Parks and Wildlife Conservation Act	<i>Territory Parks and Wildlife Conservation Act 1976</i> (NT)

Terms of Reference

Sessional Order 7

Establishment of Legislative Scrutiny Committee

- (1) The Assembly appoints a Legislative Scrutiny Committee
- (2) The membership of the scrutiny committee will comprise three Government Members, one Opposition Member and one crossbench Member.
- (3) The functions of the scrutiny committee shall be to inquire into and report on:
 - (a) any bill referred to it by the Assembly;
 - (b) in relation to any bill referred by the Assembly:
 - (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
 - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
 - (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal and Torres Strait Islander tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.

- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether a bill:
 - (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act.
- (4) The committee will provide an annual report of its activities to the Assembly.

As amended 21 July 2026

Recommendations

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 with the proposed amendments set out in recommendations 2 to 11.

Recommendation 2

The Committee recommends that proposed sections 25H(4), 33(4) and 34E(4) of the *Building Act 1993* be amended by inserting 'civil or' before 'criminal'.

Recommendation 3

The Committee recommends that regulation 21 of the Building Regulations 1993 be amended by inserting 'and (ab)' after '40(a)'.

Recommendation 4

The Committee recommends that regulation 2 of the Building Regulations 1993 be amended to provide that the Building Code means the Building Code of Australia as set out in the National Construction Code and each of the referenced documents that it calls up.

Recommendation 5

The Committee recommends that proposed regulation 19E(c)(i) of the Building Regulations 1993 be amended by omitting 'leaving' and inserting 'evacuating'.

Recommendation 6

The Committee recommends that proposed regulation 20E(4)(d) of the Building Regulations 1993 be amended to provide that:

- (a) In the case of a declaration in accordance with regulation 20D – give the documents required by regulation 20CA to the building certifier currently engaged to perform the relevant certification functions for the building work.
- (b) If the certifier who granted the building permit for the work ceases to be registered, and no other certifier is currently engaged, the documents required by regulation 20CA may be provided to the Director.

Recommendation 7

The Committee recommends that proposed sections 212(7) and (8) of the *Building Act 1993* be amended by omitting 'occupational' and inserting 'occupancy'.

Recommendation 8

The Committee recommends that the Bill be amended to provide that section 22 of the *Planning Act 1999* retains a requirement whereby:

If the Commission conducts a hearing, it must invite the local government council who made a submission to appear at the hearing and be heard in relation to the proposal.

Recommendation 9

The Committee recommends that the Bill be amended to include a consequential

amendment to section 40 of the *Planning Act 1999* to provide that where the Minister has decided under proposed section 39(1)(b) that a proposal for an exceptional development permit is not so significant as to require exhibition, the Minister must:

- (a) grant a permit in accordance with the proposal; or
- (b) alter the proposal and grant a permit in accordance with the altered proposal; or
- (c) refuse to grant a permit.

Recommendation 10

The Committee recommends that clause 69 of the Bill be amended to retain section 50(2) of the *Planning Act 1999*, which provides that:

- (2) If a local government council makes a submission in accordance with section 49(3), the consent authority must invite a representative of the council to appear before it and give evidence in relation to the development application.

Recommendation 11

The Committee recommends that section 77A(3) of the *Planning Act 1999* be amended to omit '20 business days' and insert '28 days'.

1 Introduction

Introduction of the Bill

- 1.1 The Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 (the Bill) was introduced into the Legislative Assembly by the Minister for Lands, Planning and Environment, the Hon Joshua Burgoyne MLA, on 26 August 2026. The Assembly subsequently referred the Bill to the Legislative Scrutiny Committee (the Committee) for inquiry and report by 7 October 2026.¹

Conduct of the Inquiry

- 1.2 On 28 August 2026, the Committee called for submissions by 7 September 2026. The call for submissions was advertised via the Legislative Assembly website, Facebook, and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations.
- 1.3 As set out in Appendix 1, the Committee received 10 submissions to its inquiry. On 31 August 2026, the Committee held a public briefing with representatives from the Department of Lands, Planning and Environment (see Appendix 2).
- 1.4 The Bill and associated Explanatory Statement was also forwarded to the Committee's independent legal counsel, Professor Ned Aughterson, for review of provisions in the Bill that engage clauses (3)(b)(iii)(B) and (F) of the Committee's Terms of Reference regarding consistency with the principles of natural justice, and provision of appropriate protection against self-incrimination.

Outcome of Committee's Consideration

- 1.5 Sessional Order 7 requires that the Committee after examining the Bill determine:
- (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
 - (iv) whether the bill has sufficient regard to the institution of Parliament.
- 1.6 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass the Bill with the proposed amendments set out in recommendations 2 to 11.

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026 with the proposed amendments set out in recommendations 2 to 11.

¹ Hon Joshua Burgoyne MLA, Minister for Lands, Planning and Environment, *Draft Daily Hansard – Day 2 – 26 August 2026*, <https://hdl.handle.net/10070/1046756>, pp. 19-21.

Report Structure

- 1.7 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.
- 1.8 Chapter 3 considers the main issues raised in evidence received.

2 Overview of the Bill

Background to the Bill

2.1 In introducing the Bill, the Minister advised the Assembly that it:

aims to reduce regulatory burden by reducing red tape to support local economic growth. It removes lengthy and outdated processes and increases accessibility and transparency in regulatory processes for Territorians.²

2.2 Addressing recommendations from the OmbudsmanNT's investigation report *Can we fix it? Building Certification in the NT*,³ and the findings of the Approvals Fast-Track Taskforce,⁴ the Minister noted that:

The reforms in this Bill focus on initiatives that achieve administrative efficiencies through a range of measures including:

- expanding and clarifying the current occupancy certification pathways for buildings as well as the time of the NT Fire and Rescue Service (NTFRS) inspections as part of the *Building Act* and Building Regulations
- enabling more efficiency in the dealings of two independent statutory bodies under the *Planning Act* by enabling greater use of delegations, longer appointment periods and providing more flexibility about how decisions are made
- removing unnecessary consultation for low-risk place naming whilst effectively managing risks with established guidelines for the *Place Names Act*
- modernising legislation to allow the use of email as a delivery method option to serve notices of valuation under the *Valuation of Land Act*.⁵

Purpose of the Bill

2.3 As noted in the Explanatory Statement, the Bill amends the *Building Act 1993*, the Building Regulations 1993, the *Place Names Act 1967*, the *Planning Act 1999*, the *Valuation of Land Act 1963*, and repeals the Valuation of Land Regulations 1981.

2.4 In doing so, the Bill seeks to:

increase efficiencies in administration, modernise regulatory functions, implement a risk-based regulatory approach, reduce approval timeframes, and provide certainty in decision-making.⁶

² Hon Joshua Burgoyne MLA, Minister for Lands, Planning and Environment, *Draft Daily Hansard – Day 2 – 26 August 2026*, <https://hdl.handle.net/10070/1046756>, p. 19.

³ OmbudsmanNT, *Can we fix it? Building Certification in the NT*, November 2024, <https://ombudsman.nt.gov.au/news-and-publications/2024/can-we-fix-it-building-certification-in-the-nt>

⁴ Approvals Fast Track Taskforce, *Saying 'Yes' to Business*, Northern Territory Government, Darwin, May 2025, <https://cmc.nt.gov.au/media/docs/advancing-industry/saying-yes-to-business-report.pdf>

⁵ Hon Joshua Burgoyne MLA, Minister for Lands, Planning and Environment, *Draft Daily Hansard – Day 2 – 26 August 2026*, <https://hdl.handle.net/10070/1046756>, p. 20.

⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 1.

3 Examination of the Bill

Introduction

3.1 The Committee received 10 submissions to its inquiry, all of which supported the policy intent of the Bill. However, a number of concerns were raised regarding the extent to which the Bill will fulfill its stated purpose of ‘reducing red tape’. Clarification was also sought in relation to the intended operation of various provisions within the Bill, with submitters proposing a number of suggestions as to how the Bill might be improved.

3.2 In relation to the latter, the Committee notes that in some instances suggested amendments went beyond the scope of the Bill. For example, the Australian Institute of Building Surveyors (AIBS), noted that:

the Amendment Bill misses an opportunity to reduce red tape associated with the process of registering practitioners to provide statutory building surveying services in the Northern Territory. Currently, the NT government has to determine if a practitioner holds the necessary educational and experience qualifications together with the requisite insurance cover to address the registration requirements. There is an opportunity for the registration process to leverage membership with professional associations as demonstration of these qualifications and thereby shorten the time needed and cost to assess applications for registration.⁷

While acknowledging the merit of AIBS’ proposal, the Department of Lands, Planning and Environment (the Department) advised the Committee that the proposed amendment was beyond the scope of the current Bill.⁸

3.3 The following discussion considers the main issues raised in the evidence received along with advice provided by the Department and the Committee’s independent legal counsel, Professor Ned Aughterson. As noted previously, the Committee sought Professor Aughterson’s advice regarding compliance with the fundamental legislative principles set out in clauses (3)(b)(iii)(B) and (F) of the Committee’s Terms of Reference relating to consistency with principles of natural justice, and the provision of appropriate protection against self-incrimination.

Amendment of *Building Act 1993* and associated regulations

3.4 In briefing the Committee on the Bill, the Department noted that the amendments to the *Building Act 1993* (Building Act) and the Building Regulations 1993 (the Regulations) respond to the investigation report, *Can we fix it? Building Certification in the NT* released by the OmbudsmanNT in November 2024. Of the 5 recommendations made in the report, the Committee heard that 4 are related to the legislative amendments to the Building Act and Regulations, namely:

⁷ Australian Institute of Building Surveyors (AIBS), Submission No. 5, pp. 4-5.

⁸ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 5.

1. The Department of Lands, Planning and Environment give priority to developing a legislative solution to the current impracticality of achieving certification for legacy base buildings.
2. That the proposed legislative solution provides adequate protections around the safety, health and amenity of legacy base buildings.
3. That the department consider the merits of additional legislative measures to ensure appropriate checks are made on an ongoing and regular basis to ensure the continuing safety, health and amenity of buildings used for public assembly.
4. That the department consider issues relating to timing of NT Fire and Rescue Service inspections and the carrying out of certification remotely in any review of certification requirements.⁹

Functions and powers of Advisory Committee

3.5 Existing section 11(1)(a) of the Building Act currently provides that a function of the Building Advisory Committee is to advise the Minister on the administration of the Act. Clause 6 seeks to amend this subsection to specify that the Building Advisory Committee is to advise the Minister on the administration of the Act at the request of the Minister. As noted in the Explanatory Statement, ‘this change clarifies that the advice of the Advisory Committee is to respond to matters determined by the Minister’.¹⁰

3.6 However, a number of submitters raised concerns that the proposed amendment effectively diminishes the role and function of the Building Advisory Committee.¹¹ For example, as noted by the Northern Territory Building Advisory Committee (BAC):

The proposed change narrows the scope of the BAC, confining it to a reactive role. Given the complexity of the construction industry, this could mean that issues, or potential issues, of which the BAC is aware may go unnoticed by decision-makers until they rise to a level of significant public concern. Historically, the BAC has been responsible for developing and providing extensive information to Building Advisory Services and the Minister, including through policy and building notes aimed at strengthening the building industry in the Northern Territory – most of it provided proactively rather than reactively. Moving the functions of the BAC to a reactive role could present the Minister with additional risk, including reputational risk.¹²

3.7 Similarly, the Northern Territory Building Practitioners Board (BPB) noted that:

This amendment has the effect of removing an independent source of collective advice from affected industry. The amendment also adds red tape to the processes that must be followed if industry seeks to provide authoritative views to government – that is, they would need to go through industry or professional bodies. This seems to be a step backwards in quickly identifying problems with the legislation.¹³

⁹ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, pp. 2-3.

¹⁰ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 2.

¹¹ Australian Institute of Building Surveyors (AIBS), Submission No. 5, p. 6; Northern Territory Building Advisory Committee (BAC), Submission No. 8, p. 1.

¹² BAC, Submission No. 8, p. 1.

¹³ Northern Territory Building Practitioners Board (BPB), Submission No. 7, p. 2.

3.8 Relevantly, the Committee notes that section 8 of the Building Act sets out the functions and powers of the Director, which include the following provisions at subsections (a), (c), (e) and (g):

- to advise the Minister on all matters relating to building in the Territory
- to liaise with groups and bodies involved in the building industry and with other interest groups or bodies on building matters
- to carry out periodic reviews of the Building Act and the Regulations
- to liaise with any national body established to deal with building regulation matters.

3.9 As such, the Department confirmed that the proposed amendment effectively removes the duplication with the role and functions of the Director.¹⁴ In relation to BPB's point that the amendment will mean industry will need to go through professional bodies in order to provide authoritative views to government, the Department clarified that:

Stakeholders are always welcome to raise any concerns or issues they may have with the Director or the Department, thus improving the efficiency of addressing matters experienced by industry – either as individual building practitioners or their representative bodies if they so wish.¹⁵

Committee's Comments

3.10 As noted in the Explanatory Statement, the Committee is of the view that the proposed amendment will 'increase efficiencies in administration' by removing unnecessary duplication while still ensuring that stakeholders can raise issues of concern and the Minister is kept appropriately informed.

General investigation powers of Director

3.11 As set out in the Explanatory Statement, clause 8 seeks to insert Part 3, Division 1A to 'provide for the Director to investigate any matter relating to the compliance with the [Building] Act and the Regulations in the carrying out of building work including the conduct of building practitioners'.¹⁶ As such, these new provisions align with existing investigation powers under Division 2 regarding investigation of complaints.¹⁷

3.12 AIBS and MOB Building Certifiers Pty Ltd (MOB) raised concerns regarding the breadth of the power to initiate investigations contemplated by the proposed amendment. As AIBS noted, clause 8 provides:

¹⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 1.

¹⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 1.

¹⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 2.

¹⁷ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 2.

an unfettered power to initiate an investigation about anything or anyone at any time, provided it can be linked to compliance with the Act and Regulations. AIBS believes this is not appropriate.

There should be a requirement for the Director to have a reasonable basis upon which to decide to investigate. Providing such a requirement in addition to the power to investigate freely will empower the role because it will make clear the circumstances where the allocation of resources toward an investigation is appropriate. That will reduce opportunities for those seeking to infringe upon the Director's capacity to investigate by making complaints to public accountability entities about how public resources are expended.

Such a mechanism will also ensure natural justice processes for those subject to investigation are respected by decisions to investigate and that persons in the role of director are not tempted to fish for issues where this may serve a political purpose or other external influence that may arise. Limits on powers to investigate should be viewed as providing an important integrity protection for the role of Director when undertaking investigations.¹⁸

- 3.13 MOB expressed the view that 'a broader power to initiate investigations should only be introduced with equally clear safeguards governing how that power is exercised.'¹⁹ While MOB noted that the Department does have a publicly available *Building Practitioner Complaints Policy* and a *Building Compliance and Enforcement Policy*, which 'recognise principles including natural justice, impartiality, procedural fairness, appropriate technical expertise and, in some circumstances, independent technical advice', these documents have not been updated since April 2023.²⁰
- 3.14 The Department clarified that these policies will be updated to reflect the change in legislation, and operational guidelines will be developed to provide clear safeguards regarding the Director's exercise of their investigative powers.²¹

Committee's Comments

- 3.15 Having reviewed the Department's current policies, the Committee is satisfied that the necessary checks and balances will be developed and implemented to ensure the Director's investigation powers are used appropriately.

Building Practitioner to be informed

- 3.16 As noted in the Explanatory Statement, clause 9 seeks to amend the wording of existing section 29 as follows:

This clause replaces section 29(a) with updated wording to specify that the Director must inform the building practitioner of the nature of the complaint or the purpose of the investigation. This removes the requirement for the Director to provide a copy of the complaint to the building practitioner, as the complaint includes personal details of the complainant.

This clause also replaces the word 'complaint' with 'matter' at section 29(b).²²

¹⁸ AIBS, Submission No. 5, p. 7.

¹⁹ MOBS, Submission No. 10, p. 2.

²⁰ MOBS, Submission No. 10, p. 2.

²¹ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 1.

²² Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 2.

- 3.17 AIBS and MOB raised concerns regarding the extent to which the proposed amendments are appropriate. As AIBS pointed out:

Whilst still obliging the Director to provide the nature of the complaint and a description of the purpose of an intended investigation, it is not the same as disclosing the actual complaint. This appears to impinge on the natural justice principles that should be followed when raising an issue, the outcome of which could be of significant detriment to the practitioner.²³

- 3.18 The Committee was advised that 'natural justice will remain a key principle of the Department's building compliance and enforcement policies.'²⁴ In this regard, it was further noted that 'the proposed amendment will protect a complainant from reprisal action from the registered practitioner who is the subject of the complaint.'²⁵
- 3.19 Importantly, the Department further advised the Committee that existing section 28 of the Building Act provides that the Director may dismiss a complaint without investigation if satisfied that:
- (a) the complaint is without foundation or is frivolous or vexatious; or
 - (b) the matter complained of is insubstantial; or
 - (c) the complainant does not comply with a request under section 28 for further particulars about the complaint; or
 - (d) after considering any response of the building practitioner under section 29(b), the Director considers that investigation is not warranted.

Committee's Comments

- 3.20 The Committee is satisfied with the Department's advice and notes that it is important to acknowledge that natural justice principles are applicable to both the complainant and the practitioner who is the subject of the complaint or investigation. The Committee also understands that the amendment addresses the fact that it is not unusual for complaints to include extraneous information that is not necessarily relevant to the complaint or matter under investigation.

Abrogation of the privilege against self-incrimination

- 3.21 Proposed section 25H(2) (Building practitioners and others must cooperate during investigation), as inserted by clause 8, provides that it is an offence to: (a) refuse or fail to comply with a requirement of the Director under section 25G(1); or (b) obstruct or hinder the Director in the exercise of a power under section 25G. Subsections (3) and (4) then provide as follows:
- (3) A person is not excused from answering a question, or providing information or producing any document, if required to do so by the Director under this Division,

²³ AIBS, Submission No. 5, p. 7.

²⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 2.

²⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 2.

on the ground that the information or answer or document might tend to incriminate the person or make the person liable to a penalty.

- (4) However, the information, answer or document is not admissible in evidence against the person in any criminal proceeding, other than a proceeding for an offence against the Building Act.

- 3.22 Clauses 10 and 11 seek to amend existing sections 33 (Building practitioners and others must cooperate during investigation) and 34E (Building practitioners must cooperate with auditor) respectively, to:

strengthen the provisions to explicitly provide that a person is not excused from providing information that may incriminate or make the person liable for a penalty and clarify that the information is not admissible in evidence against the person in any criminal proceedings, other than a proceeding for an offence against the *Building Act 1993*.²⁶

As such, the Bill seeks to amend sections 33 and 34E to include subsections (3) and (4) in substantively the same terms as that provided for in proposed section 25H(3) and (4).

- 3.23 Submitters raised concerns in relation to natural justice and the extent to which the use immunity extends to civil proceedings. For example, the BAC noted that:

While the BAC supports the powers to investigate and audit building practitioners, these proposed changes – particularly the inability to refuse to answer questions – appear problematic from a natural justice perspective, given that the information may then be used in criminal proceedings for an offence against the Building Act.

The privilege against self-incrimination is a fundamental principle of the common law, and is protected under Article 14(3)(g), of the International Covenant on Civil and Political Rights, to which Australia is a party. The Bill does provide that compelled information cannot be used in a prosecution, but excepts prosecutions for offences against the Building Act – that is, the very proceedings an investigation or audit under the Act is most likely to produce. The immunity therefore offers no protection where it matters most: a practitioner can be compelled, on pain of penalty, to provide the evidence used to prosecute them. In substance this displaces the accusatorial principle that the burden of proving an offence rests with the prosecution, not with the person under investigation.

The burden of establishing an offence should remain on the investigating body, and should be discharged using independent evidence rather than compelled answers or documents obtained from the person under investigation. The BAC does not suggest that the Director would misuse these powers, but a power drafted this broadly reduces the incentive to gather independent evidence and, as against natural persons, removes a protection the common law treats as fundamental.²⁷

- 3.24 The BPB noted that:

it is relatively rare to require answers and documents that may lead to adverse criminal and civil outcomes. Compare, for example, section 80(2) of the *Agents Licensing Act 1979* and section 163 of the *Electrical Safety Act 2022*.

²⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 3.

²⁷ BAC, Submission No. 8, p. 2.

Additionally, it is unclear as to whether new sections 25H(4) and 34E(4) prevent or facilitate the use of the answers and documents in disciplinary proceedings before the Board or the Northern Territory Civil and Administrative Tribunal.²⁸

- 3.25 While it is acknowledged that it may be appropriate for legislation to override the privilege against self-incrimination ‘where its use could seriously undermine the effectiveness of a regulatory scheme and prevent the collection of evidence’,²⁹ doing so represents a significant loss of personal liberty for the person concerned. It is, therefore:

usual to provide some degree of protection by constraining what the evidence can be used for. This is done by providing for either or both a use and derivative use immunity:

- ‘use’ immunity – self-incriminatory information or documents provided by a person cannot be used in subsequent proceedings against that person, but can be used to investigate unlawful conduct by that person and third parties, and
- ‘derivative use’ immunity – self-incriminatory information or documents provided by a person cannot be used to investigate unlawful conduct by that person but can be used to investigate third parties.³⁰

- 3.26 In relation to the abrogation of the privilege against self-incrimination in the Bill, a limited ‘use’ immunity is provided in that the information, answer or document is not admissible in evidence against the person in any criminal proceeding, other than a proceeding for an offence against the Building Act. However, as currently drafted it is unclear whether the abrogation of the privilege applies where the person is exposed to a civil penalty, and, as a consequence, whether the use immunity should extend to civil proceedings, other than a proceeding for an offence against the Building Act.

- 3.27 Given the above, advice was sought from the Committee’s independent legal counsel Professor Ned Aughterson. Professor Aughterson identified two issues with the way in which these provisions are currently drafted:

First, it is noted that a distinction is drawn in the *Building Act* between a ‘penalty’ and a ‘civil penalty.’ In relation to the latter, s 34T and 34Y (see also s 34X) provide for the payment of a ‘civil penalty’ in the event of specified disciplinary findings. On the other hand, there are many instances in the *Building Act* where the term ‘penalty’ (as distinct from ‘civil’ penalty) is used, in association with the specification of the applicable ‘penalty units’.

There is a principle relating to the construction of legislation which is expressed in terms of ‘different words, different meaning’; in other words, if the legislature used different words in a statute there is a presumption that they were intended to have a different meaning. In [s 24H(3)], s 33(3) and s 34E(3), the term ‘penalty’ and not also ‘civil penalty’ is used. That begs the question of whether the term ‘penalty’ in [s 24H(3)], s 33(3) and s 34E(3) extends to a civil penalty; that is,

²⁸ BPB, Submission No. 7, p. 3.

²⁹ Attorney-General’s Department, *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*, Australian Government, Canberra, May 2024, <https://www.ag.gov.au/legal-system/publications/guide-framing-commonwealth-offences-infringement-notices-and-enforcement-powers>, p. 87.

³⁰ Attorney-General’s Department, *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*, Australian Government, Canberra, May 2024, <https://www.ag.gov.au/legal-system/publications/guide-framing-commonwealth-offences-infringement-notices-and-enforcement-powers>, p. 88.

whether the abrogation of the privilege also applies to information sought in the context of disciplinary proceedings.

It is noted that both at common law and, generally, under legislation the privilege extends to both criminal and civil penalties. For background in relation to the position at common law, see *Rich v Australian Securities and Investments Commission* [2004] HCA 42;220 CLR 129, at [23]-[24]. In relation to legislation, see s 128 of the *Evidence (National Uniform Legislation) Act 2011*. See also, for example, s 597(12), s1316 and s 1349 of the *Corporations Act 2001*. In both of those Acts, the privilege extends to circumstances where there are civil penalties.

The fact that the limitation at [s 24H(4)], s 33(4) and s 34E(4) as to the use that may be made of any information provided applies only to any subsequent criminal proceedings, might indicate that the compulsion to answer questions or provide information pursuant to [s 24H(3)], s 33(3) and s 34E(3) is not intended to apply where the person is exposed to a civil penalty.

However, given the context of the Bill and the fact that there is little difference in the nature or seriousness of the relevant conduct, whether attracting a 'penalty' or a 'civil penalty', it is likely intended that [s 24H(3)], s 33(3) and s 34E(3) extend to both. See for example, s68 of the *Australian Securities and Investments Commission Act 2001*, where the single term 'penalty' is used. In the wider context of the Bill, it would seem odd that a person could refuse to answer a question or supply information where a potential 'civil penalty' arises, but not where exposed to a 'penalty'.³¹

- 3.28 The second issue identified by Professor Aughterson concerns the fact that the limitation on the use of the information, answer or document provided is confined to subsequent criminal proceedings:

That is not consistent with the approach taken in other legislation. As exemplified by the legislation noted above, the protection against self-incrimination typically extends to both criminal and civil proceedings, as does the use that may be made of information obtained.

For an example of interstate legislation equivalent to the NT *Building Act*, see the *Queensland Building and Construction Commission Act 1991*. Sections 105M and 105T of that Act require the production of specified information. Section 107(2) then provides:

Evidence of the document or information, and other evidence directly or indirectly derived from the document or information, is not admissible against the individual **in any proceeding** to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.³²

- 3.29 Professor Aughterson, therefore, concluded that:

As drafted, there is potential for some confusion in relation to the operation of sections [25H(3) and (4)], 33(3) and (4) and 34E(3) and (4). Further, if the abrogation of the privilege applies where there is exposure to a civil penalty, there is a question of why the limitation on the use that may be made of that information is not also extended to non-criminal proceedings.³³

³¹ Professor Ned Aughterson, *Legal Advice on the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, (unpublished), 12 September 2026, pp. 1-2.

³² Professor Ned Aughterson, *Legal Advice on the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, (unpublished), 12 September 2026, pp. 2-3.

³³ Professor Ned Aughterson, *Legal Advice on the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, (unpublished), 12 September 2026, p. 3.

Committee's Comments

- 3.30 Given that the abrogation of the privilege against self-incrimination in sections 25H, 33 and 34E only applies in relation to the statutory scheme, the Committee considers that it is justifiable on public safety grounds, noting the importance of ensuring compliance with the Building Act and associated regulations. However, noting that removing the privilege against self-incrimination represents a significant loss of liberty for an individual who is forced to give evidence that would tend to incriminate themselves, the Committee is mindful of ensuring that the subsequent use immunity is appropriately framed.
- 3.31 Taking into consideration Professor Aughterson's advice and to ensure that the Bill is unambiguous and drafted in a sufficiently clear and precise manner, the Committee is of the view that the Bill should be amended to provide that the use immunity extends to civil or criminal proceedings, other than a proceeding for an offence against the Act.

Recommendation 2

The Committee recommends that proposed sections 25H(4), 33(4) and 34E(4) of the *Building Act 1993* be amended by inserting 'civil or' before 'criminal'.

Professional misconduct

- 3.32 Clause 14 seeks to insert a new section 34S(2) to provide that where a corporation is found guilty of professional misconduct, directors of the corporation are also taken to be guilty of professional misconduct. As such, the Bill aligns the new provisions with the existing offence provisions for corporations under section 151. Similar to section 151(1), the directors of the corporation or a person concerned in the management of the corporation has access to a defence against the offence if they can prove that they had no knowledge of the misconduct and could not, by the exercise of due diligence, have prevented the misconduct.
- 3.33 BPB sought clarification as to the operation of this new section noting that:
- basic principles of procedural fairness would appear to require that the directors be made parties to the Director's application. Unless the directors are parties to proceedings they would have no opportunity to raise the defence set out in proposed section 34S(2). ...³⁴
- However, there are many corporate building practitioners that have directors who are not registered as individual practitioners. For example, large public companies that construct buildings or provide engineering or certification services.
- Most of the penalties for professional misconduct (e.g. cancellations, suspensions) are not relevant to persons who are not registered in their own right as building practitioners. The Board queries whether the amendment is intended to apply to directors who have no personal registration. If it is intended to apply to them it might be useful to include appropriate sanctions (in addition to a fine).³⁵

³⁴ BPB, Submission No. 7, p. 1.

³⁵ BPB, Submission No. 7, p. 2.

- 3.34 Existing section 25(1)(a) of the Building Act provides that if a corporation is carrying out a function as a building practitioner, the function must be carried out by or at the direction of a registered individual for the corporation. Section 25(2) then provides that, for the purposes of subsection (1), registered individual means:
- (a) for a corporation registered in a category of building practitioner other than building contractor – an individual concerned in the management or conduct of the corporation, or a nominee of the corporation, who is registered in the same category as the corporation; and
 - (b) for a corporation registered in a category of building contractor – a director or nominee of the corporation who is registered in that category.
- 3.35 Taking into consideration the provisions of section 25 and the intent of proposed section 34S(2), any action against a corporation would necessarily require that the individual/s registered to undertake the function as a building practitioner or responsible for directing the carrying out of a function as a building practitioner would be parties to the action. Further, as clarified by the Department, given the definition of ‘registered individual’:
- a Director who does not meet the registration requirements as a building practitioner (such as HR director) would not be eligible to be found guilty of professional misconduct as the Building Practitioners Board only has jurisdiction over building practitioners.³⁶

Committee’s Comments

- 3.36 The Committee is satisfied with the Department’s clarification of the intended operation of proposed section 34S(2) regarding professional misconduct.

Building certifier or Director may rely on certificate

- 3.37 Section 40(a) of the Building Act currently provides that a building certifier or the Director may, in performing a function under the Building Act, rely on a certificate of a building practitioner that the building work complies with the Building Act or the Regulations. Clause 15 seeks to amend this subsection to specify that a certificate of a building practitioner must now indicate that the building work complies with both the Building Act and the Regulations.
- 3.38 Clause 15 also seeks to insert new section 40(ab), to provide that the aforementioned certificate complies with a design certified by another building practitioner as complying with the Building Act and the Regulations that was provided with the application for the building permit for the building work. As noted in the Explanatory Statement:

This will allow an inspecting practitioner who was not involved in the design to provide certification that the building works have been constructed in accordance

³⁶ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 2.

with the approved and previously certified design, without needing to certify that the design itself complies with the Act and the Regulations.³⁷

- 3.39 The BPB and BAC sought clarification as to the intended operation of proposed section 40(ab). As noted by BPB:

The Board assumes that the purpose of this provision is to deal with a problem that may arise when one person certifies a design but another person is certifying the completion of the work.

The Board is concerned that section 40(a), when read with the new section 40(ab), may be administered so that there is a requirement for re-certification of the design as of the certification of the work.³⁸

- 3.40 With regards to the intended operation of existing section 40(a) and new section 40(ab), the Department clarified that section 40(a) applies where a building practitioner has certified that a design is in accordance with the Building Act and the Regulations and then proceeds to inspect the constructed building work confirming it is in accordance with their certified design.³⁹

- 3.41 Proposed section 40(ab), on the other hand, enables a building practitioner to certify that the building work complies with a design which has been certified by another building practitioner as complying with the Building Act and the Regulations. As the Department noted:

The intention of introducing the proposed [section] 40(ab) is to support a building practitioner who may not have been involved in the design of the building works to be able to assess and determine that the constructed works are in accordance with that design, as opposed to in accordance with the Act or Regulations which may involve reassessment and calculation of the as-constructed building to confirm its compliance.⁴⁰

As such, it is understood that it is not intended that sections 40(a) and (ab) will be read together. Rather, they are two of the four distinct certificates that a building certifier or the Director may, in performing a function under the Act, rely on.

- 3.42 The BPB also noted that a consequential amendment may be required to regulation 21 (Certificates by particular building practitioners) such that it refers to new section 40(ab) as well as section 40(a).⁴¹

Committee's Comments

- 3.43 The Committee is satisfied with the Department's clarification of the intended operation of sections 40(a) and (ab). However, as confirmed by the Department, the Committee notes that a consequential amendment is required of regulation 21 such that it refers to both sections 40(a) and (ab).

³⁷ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 3.

³⁸ BPB, Submission No. 7, p. 3.

³⁹ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 2.

⁴⁰ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 2.

⁴¹ BPB, Submission No. 7, p. 3.

Recommendation 3

The Committee recommends that regulation 21 of the Building Regulations 1993 be amended by inserting ‘and (ab)’ after ‘40(a)’.

Removal of term ‘in all material respects’

3.44 Clauses 18, 20 and 21 seek to remove the term ‘in all material respects’ from sections 63(5), 70(1) and 72. In relation to section 63, clause 18 also seeks to amend section 63(7) to provide that the inspection certificate must be issued within 14 days after the date of the inspection.⁴²

3.45 A number of submitters raised concerns regarding removal of the term ‘in all material respects’ from the inspection and occupancy provisions in the Building Act and the extent to which the proposed amendment will increase rather than reduce red tape.⁴³ For example, as explained by MOB:

The expression [in all material respects] has an established practical role in allowing a certifier to distinguish between a material non-compliance and a minor or inconsequential variation. The Department’s 2006 policy, Policy Regarding “in ALL Material Respects” (BAS2006/001), was specifically directed to the operation of sections 63, 70 and 72 and explained the concept as requiring the important and essential aspects of the work to be in place and compliant.

The Bill removes the statutory materiality threshold. It would not necessarily mean that every departure from an approved drawing automatically becomes unlawful; however, the combined effect of the amended inspection provisions, the existing requirement in section 55 for work to be carried out in accordance with the permit, and proposed section 60B(3) may significantly reduce the practical discretion presently available to deal with harmless variations without a permit amendment.
...

If minor compliant variations increasingly require formal permit amendments, the likely consequences are more certifier and consultant time, additional amendment fees, and avoidable interruption to building work while revised documentation is prepared and assessed.⁴⁴

3.46 Noting the absence of industry consultation regarding removal of the term ‘in all material respects’, MOB proposed the following recommendation:

Retain “in all material respects” pending target consultation. If the intent is to remove ambiguity, consider replacing it with a defined materiality test rather than moving to an undifferentiated compliance threshold.⁴⁵

3.47 The BAC also pointed out that the current policy:

recognises that ‘the building certifier is not a building site supervisor and cannot oversee all aspects of the building work during construction.’ Removal of the ‘in all material respects’ puts more onus on the building certifier to ensure the notifiable/prescribed inspection stages meet the requirements of the Act and Regulations. This means building certifiers will not be able to sign inspection certificates unless suitable evidence/documents can confirm compliance. This will create time delays and additional costs to the consumer ... These more

⁴² Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

⁴³ See for example, AIBS, Submission No. 5, pp. 7-8; BAC, Submission No. 8, p. 3; BPB, Submission No. 7, pp. 3-4; and MOB, Submission No. 10, p. 4.

⁴⁴ MOB, Submission No. 10, p. 4.

⁴⁵ MOB, Submission No. 10, p. 4.

onerous requirements would also ripple outwards to other practitioners as certifiers seek to confirm this higher level of compliance.

The BAC views this as a clear increase in red tape which will be felt by all consumers. It will drive up prices and blow out timelines with no substantive gain.⁴⁶

- 3.48 The Department advised that the proposed amendment seeks to remove the ambiguity relating to the term ‘in all material respects’ rather than continued reliance on a policy document that attempts to clarify the meaning of this term. By removing it entirely, the amendment seeks to ensure consumers are better protected by requiring that all building work complies with the Building Act and the Regulations, which is consistent with legislation in other jurisdictions.⁴⁷
- 3.49 With regards to comments that it is not possible for a certifier to be satisfied that building work complies with the Building Act and the Regulations as they are not building site supervisors and cannot oversee all aspects of the building work during construction, it is noted that section 63(4) of the Building Act provides that:
- (4) A building certifier or the Director may do anything that is reasonably necessary to be done to inspect building work under this section, including demolishing, opening, cutting into and testing the building work.
- 3.50 Concern was also raised regarding the proposed amendment to section 63(7) to require that the inspection certificate must be issued within 14 days after the date of the inspection. For example, AIBS noted that:
- this is often not likely to work where an inspection may have taken place but the work cannot be verified as compliant until the Certifier has been furnished with additional information which may take longer than 14 days to be provided. AIBS recommends that instead of linking the timeframe to the date of the inspection, that the timeframe runs from the date that the Certifier determines that the inspection result is satisfactory.⁴⁸
- 3.51 As clarified by the Department, the proposed 14-day timeframe responds to identified failures to issue inspection certificates in a timely manner, and ‘is consistent with other timeframes throughout the Act and provides sufficient time for the certifier to submit the certificate’.⁴⁹

Committee’s Comments

- 3.52 The Committee is satisfied with the Department’s clarification and notes that the proposed amendments are consistent with equivalent legislation in other jurisdictions and will ensure consumers are better protected.

⁴⁶ BAC, Submission No. 8, p. 3.

⁴⁷ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 3.

⁴⁸ AIBS, Submission No. 5, p. 8; see also MOB, Submission No. 10, pp. 4-6.

⁴⁹ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 3.

Occupancy certification and temporary structures used for public assembly

- 3.53 Clause 19 seeks to amend section 66 of the Building Act by replacing the requirement for an occupancy permit with a requirement for occupancy certification, and to exclude certain types of temporary structures from requiring occupancy certification. As noted in the Explanatory Statement:

This change provides for other types of occupancy certification (certificates of substantial compliance, certificates of existence and temporary occupancy) to be sufficient for public assembly places, buildings or temporary structures.

This clause also excludes temporary structures used for public assembly that are marquees or shade structures that do not have tiered seating or fixed internal structures from requiring occupancy certification.⁵⁰

- 3.54 With regards to the latter point, Litchfield Council (LC) advised that it opposed the exemption as currently drafted given that:

Council is frequently the owner of the land on which public events are held and the authority that approves their use of that land. Litchfield is within a cyclone region and wind loading on temporary structures is a material risk. An exemption expressed without reference to size, occupant capacity or wind loading transfers risk to Council as landowner and event approver and leaves Council with no certification on which to rely.⁵¹

- 3.55 LC subsequently recommended that:

The exemption in S.66(3) be conditioned on reference to floor area or occupant capacity, and that engineered tie-down and wind-loading certification be required for exempt structures within cyclone regions.⁵²

- 3.56 However, as the Department pointed out to the Committee:

The explicit exclusion of specific temporary structures from requiring certification will not prevent the land owner from seeking certification for such structures if so desired.⁵³

- 3.57 The Department further advised that:

No consideration was given to size etc because most temporary structures are not erected in the cyclone season and they can be easily dismantled at the cyclone watch stage if necessary.⁵⁴

Committee's Comments

- 3.58 As noted above, local government authorities, as the land owners and event approvers, can require the event organiser to provide certification to mitigate their exposure to any potential risks should they deem it necessary, and have the capacity

⁵⁰ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

⁵¹ LC, Submission No. 4, p. 12.

⁵² LC, Submission No. 4, p. 12.

⁵³ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 3.

⁵⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 3.

to not approve the erection of temporary structures during the cyclone season. Accordingly, the Committee does not consider that this clause requires amending.

Interpretation

- 3.59 Together clauses 31 and 33 seek to move the existing definition of ‘Australian Standard’ from regulation 5E(3) to regulation 2(1).⁵⁵ While supporting this amendment, AIBS pointed out that:

the definition for ‘Building Code’ is outdated. It should reference the National Construction Code and each of the referenced documents that it calls up. This will ensure that the ABCB Housing Provisions Standard is able to be used in the Northern Territory, alongside Australian and other Standards that are referenced in Volumes One and Two as may be applicable.

There may also need to be an additional definition added for ‘Referenced document’ being a document that is called up via the National Construction Code.⁵⁶

- 3.60 While acknowledging that the definition of Building Code is outdated and should be updated to reference the NCC, the Department advised that:

It is unnecessary to further define referenced documents as this is clearly articulated in the Governing Requirements of the NCC.⁵⁷

Committee’s Comments

- 3.61 Given the Department’s response, and to ensure the Bill is unambiguous and drafted in a sufficiently clear and precise way, the Committee is of the view that the Bill should be amended to update the definition of the Building Code.

Recommendation 4

The Committee recommends that regulation 2 of the Building Regulations 1993 be amended to provide that the Building Code means the Building Code of Australia as set out in the National Construction Code and each of the referenced documents that it calls up.

Classification of buildings and Criteria to be complied with

- 3.62 Clause 40 seeks to replace regulations 19D and 19E. As noted in the Explanatory Statement:

The amended regulation 19D specifies that for section 72D(2) of the Act, all classes of buildings are prescribed. This change removes the previous exception for buildings identified in the Building Code as Importance Level 3 or 4 buildings.

⁵⁵ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 6.

⁵⁶ AIBS, Submission No. 5, p. 10.

⁵⁷ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 4.

The amended regulation 19E expands the criteria to be complied with for section 72E(4)(c)(ii) of the Act to provide greater detail about the applicable technical specifications to be complied with.⁵⁸

3.63 The AIBS expressed the view that these provisions should be:

subject to a delayed adoption, particularly the expansion of the certificate of existence processes to buildings build after 1 May 2026 and that are of any age and required to be constructed to Importance Level 3 or 4.

The purpose of the delayed adoption is to allow industry time to properly understand what is involved in the expanded scope of work that will potentially be presented by applicants, and additionally, to understand how this work will interact with requirements arising via Section 55 and 59 of the Building Act 1993 related to the granting of building permits. AIBS proposes an 18 month delay to the adoption of these amendments.⁵⁹

3.64 As highlighted in the Explanatory Statement, clause 2 provides that the amendments proposed in the Bill will commence on a day to be fixed by *Gazette* notice. However, it is further noted that ‘if a provision of the amendment Act has not commenced before 26 August 2028, it will commence on that day.’⁶⁰ This arrangement enables the various parts of the Bill to be implemented at differing times to allow for further consultation with industry and the development of associated operational policies and guidelines. As acknowledged by the Department, ‘the amendments to the Building Act and Regulations will require careful implementation and therefore will commence later than the other amendments.’⁶¹

3.65 In relation to proposed regulation 19E, AIBS noted that regulation 19E(c)(i):

references ‘leaving the building’. This terminology is uncommon and may cause confusion.

AIBS recommends the use of terminology that is more consistent with the National Construction Code such as ‘egress’ or ‘evacuation’.⁶²

The Department advised that ‘evacuation’ would be more consistent with the language used in the NCC.⁶³

3.66 In a similar vein, MOB raised concerns that:

Proposed regulation 19E(c)(ii) and (iii) uses the expressions “prevention and suppression of fire” and “prevention of the spread of fire”. These are broad concepts. For certainty, the drafting should identify whether the intended benchmark is the relevant National Construction Code Performance Requirements, DTS [Deemed-to-Satisfy] Provisions or another defined technical threshold, and how those requirements are to be applied to existing work.⁶⁴

⁵⁸ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 7.

⁵⁹ AIBS, Submission No. 5, p. 5.

⁶⁰ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 1.

⁶¹ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 4.

⁶² AIBS, Submission No. 5, p. 11.

⁶³ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 4.

⁶⁴ MOB, Submission No. 10, p. 10.

- 3.67 While the Department noted that the proposed terms in regulations 19E(c)(ii) and (iii) are consistent with the language used in the NCC, they further advised that:

it is intended that appropriate guidance materials will be published by the Department to support industry in their application of these provisions.⁶⁵

Committee's Comments

- 3.68 Taking into consideration the Department's advice, the Committee is satisfied that the commencement provisions will ensure that industry and the Department are appropriately prepared for the implementation of the amended Act and the Regulations.
- 3.69 In relation to the terminology used in regulation 19E(c)(i), the Committee agrees that the phrase 'evacuation from the building' is more appropriate than 'leaving the building' and has recommended the Bill be amended accordingly.
- 3.70 With regards to MOB's concerns about the terms 'prevention and suppression of fire' and 'prevention of the spread of fire', the Committee is satisfied with the Department's response that these terms are consistent with the language used in the NCC and that the Department will develop and publish appropriate guidance to support industry in their application of the provisions.

Recommendation 5

The Committee recommends that proposed regulation 19E(c)(i) of the Building Regulations 1993 be amended by omitting 'leaving' and inserting 'evacuating'.

Declaration by corporation after prescribed event

- 3.71 Clause 44 seeks to insert new regulation 20E(4)(d) to provide that, in the case of a declaration in accordance with regulation 20D, the person must give the documents required by regulation 20CA to the building certifier who granted the building permit for the work no later than 14 days after the appropriate person has been given the information under regulation 20E(3).⁶⁶
- 3.72 MOB raised concerns regarding the intended operation of this amendment noting that:

The certifier who originally granted the permit may no longer be the certifier currently engaged for the development. The Act expressly provides mechanisms for an engagement to be referred to the Director or another building certifier, and for another certifier to be engaged where the original certifier resigns, dies or becomes incapable of performing the functions. The original certifier may also simply no longer be practicing. In those circumstances, directing the documents only to the certifier who granted the permit may create an avoidable administrative dead end and may prevent the current certifier from receiving documents needed to complete the statutory certification process.

Recommendation. Amend proposed regulation 20E(4)(d) so the documents are given to the building certifier currently engaged to perform the relevant

⁶⁵ Department of Lands, Planning and Environment, *Advice regarding further query on Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, (unpublished), 25 September 2026, p. 1.

⁶⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 8.

certification functions for the building work, rather than necessarily the certifier who originally granted the permit. If no private certifier is currently engaged, the provision should identify the appropriate recipient or referral pathway.⁶⁷

- 3.73 As highlighted by MOB, the Department confirmed that the Building Act already provides that land owners can engage another certifier to perform certification functions if required. However, it was acknowledged that, as drafted, this may not be entirely clear. The Department further noted that:

Regulation change could be considered for the purpose of red tape reduction to enable a land owner to submit the documents to the Director [of Building Control] if, in the case the certifier who granted the building permit for the work ceases to be registered (such as having retired or dies), and no other certifier is currently engaged.⁶⁸

Committee's Comments

- 3.74 Taking into consideration the Department's response, the Committee is of the view that to ensure the Bill is unambiguous and drafted in a sufficiently clear and precise manner, regulation 20E(4)(d) should be amended to clarify that the required documents can be provided to the building certifier currently engaged to undertake the relevant certification, and where no certifier is engaged that the land owner may submit the documentation to the Director of Building Control.

Recommendation 6

The Committee recommends that proposed regulation 20E(4)(d) of the Building Regulations 1993 be amended to provide that:

- (a) In the case of a declaration in accordance with regulation 20D – give the documents required by regulation 20CA to the building certifier currently engaged to perform the relevant certification functions for the building work.**
- (b) If the certifier who granted the building permit for the work ceases to be registered, and no other certifier is currently engaged, the documents required by regulation 20CA may be provided to the Director.**

Typographical Errors

- 3.75 AIBS questioned the terminology used in proposed sections 212(7) and (8) which refer to 'occupational certification', suggesting that instead they should refer to 'occupation certificate'.⁶⁹

⁶⁷ MOB, Submission No. 10, p. 10.

⁶⁸ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 23 September 2026, p. 4.

⁶⁹ AIBS, Submission No. 5, p. 9.

Committee's Comments

- 3.76 Following confirmation from the Department, the Committee notes that for consistency with proposed sections 212(9) and (10), the references to 'occupational certification' should be amended to 'occupancy certification'.

Recommendation 7

The Committee recommends that proposed sections 212(7) and (8) of the *Building Act 1993* be amended by omitting 'occupational' and inserting 'occupancy'.

Amendment of *Place Names Act 1967*

- 3.77 During the public briefing on this Bill the Committee heard that the amendments to the *Place Names Act 1967* (Place Names Act) seek to address the fact that, currently, the Place Names Act only provides a single pathway for all naming requests which is:

not proportionate to differences in complexity and risk. Many of the naming submissions are considered low risk and do not require the level of stakeholder views and committee oversight that they currently receive.

The amendments in the Bill provide for low-risk place names to be assessed differently from complex place names.⁷⁰

- 3.78 In addition, the Committee was advised that other minor amendments seek to modernise the Place Names Act and implement changes that support operational efficiencies and clarify responsibilities.⁷¹

Meaning of Place, Reports and Recommendations

- 3.79 Clause 51 seeks to amend section 4A of the Place Names Act to provide that a place includes:

- (a) a geographic or topographic feature (whether or not covered by water); and
- (b) a county, hundred, town, community, suburb, or locality within a town or a site for a town; and
- (c) a highway, road, street, lane, trail or thoroughfare that is open to or used by the public; and
- (d) a park or garden that is open to or used by the public; and
- (da) a reserve or a recreation or sporting ground that is open to or used by the public; and
- (e) a public cemetery as defined in the *Burial and Cremation Act 2022*; and

⁷⁰ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

⁷¹ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

- (f) public infrastructure associated with transport facilities, educational institutions, medical institutions or nursing homes; and
 - (g) a place, structure or building that is or may be of public or historic interest.
- 3.80 Clause 52 then seeks to amend section 9(1) to provide that the Place Names Committee for the Northern Territory may make reports to the Minister regarding the naming of places specified in section 4A(1)(a), (b), (da), (e), (f), and (g), or that are referred to the Place Names Committee by the Surveyor-General pursuant to section 10A(2). As noted in the Explanatory Statement, the places specified in this clause are considered to be 'complex place names'.⁷²
- 3.81 Clause 53 seeks to insert new section 10 to provide that the Surveyor-General may make reports to the Minister regarding the naming of places specified in sections 4A(1)(c) or (d). In this instance, the Explanatory Statement notes that the places specified in this clause are considered to be 'low-risk place names'.⁷³
- 3.82 Noting that the Bill neither refers to nor defines the terms 'low-risk' and 'complex' place names, the Committee sought clarification from the Department as to whether any consideration was given to including a definition of these terms in the Bill and, if not, why not. The Department subsequently advised that:

The Department considers that inserting definitions of 'low-risk' and 'complex' would be problematic. The defined terms would have no work to do in the Act, and could imply that a case-by-case risk assessment is required before a pathway is selected. That would introduce uncertainty and scope for dispute, contrary to the purpose of the amendments.

Flexibility for individual proposals that warrant broader consideration is provided by new section 10A(2), under which the Surveyor-General may refer the naming of any place to the Committee.

The terms 'low-risk' and 'complex' are used in the Explanatory Statement as descriptive shorthand only. They are not used in the Bill and have no operative effect, which is why they are not defined.

The Bill does not require any assessment of risk to determine which pathway applies. Instead, it allocates responsibility by category of place already defined in section 4A(1). Roads (section 4A(10)(c)) and parks and gardens (new section 4A(1)(d)) are dealt with by the Surveyor-General under new section 10A. All other categories of place (section 4A(1)(a), (b), (da), (e), (f) and (g)) remain with the Committee under section 9(1). The amendment to section 4A in clause 51 is made so that this allocation can be expressed precisely.

The places allocated to the Surveyor-General reflect where the bulk of place naming occurs. Approximately 80 per cent of naming proposals relate to roads and parks in new greenfield subdivisions. In these cases, there are no existing residents, addresses or established usage affected, the names are proposed by the developer against published guidelines, and timely approval directly supports land release. This is the sense in which the Explanatory Statement describes these names as low-risk.

Where a road, park or garden proposal falls outside those circumstances, for example the renaming of an existing road with residents, or a proposal involving

⁷² Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 9.

⁷³ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 9.

an Aboriginal name, the Surveyor-General will refer it to the Committee under section 10A(2) and the existing process applies in full.⁷⁴

- 3.83 In relation to the latter comment, it is understood that ‘complex’ place names and those referred to the Place Names Committee by the Surveyor-General will be subject to the consultation and reporting provisions set out in section 9 of the Place Names Act.
- 3.84 Clause 51 also seeks to insert new section 4A(2)(ba) to clarify that a park or reserve declared under section 12 of the *Territory Parks and Wildlife Conservation Act 1976* (Territory Parks and Wildlife Conservation Act) is not classified as a place named under the Place Names Act.⁷⁵ However, noting that section 12(2) of the Territory Parks and Wildlife Conservation Act provides that ‘the Commission may, after receiving a report from the Place Names Committee, assign a name to a park or reserve or a proposed park or reserve’, Justin Tutty sought clarification as to what the naming process for declared parks or reserves will be should the Bill be passed.
- 3.85 As is currently the case, section 4A(2)(c) provides that ‘a place that is given or that may be given a name under another law in force in the Territory is excluded from the definition of place’. However, this does not prevent the Parks and Wildlife Commission, for example, from seeking advice from the Place Names Committee before assigning a name. The new section 4A(2)(ba), simply seeks to put it beyond doubt that, as is currently the case in relation to a division within the meaning of the *Electoral Act 2004* or a local government area or a ward, the exclusion also applies to parks and reserves declared under the Territory Parks and Wildlife Conservation Act.
- 3.86 Aboriginal Investment NT (AINT) raised concerns and sought clarification regarding consultation requirements where proposals for the naming of ‘low-risk’ involve Indigenous names or Indigenous land:

Under existing section 9, the Place Names Committee must require the proponent or another appropriate person to seek and report the views of interested persons before making a recommendation. Section 9(4) expressly includes the relevant land Council for places outside a local government area ... Section 11A also addresses the naming or renaming of an Aboriginal community requested by an organisation representing that community. ...

Proposed section 10A does not reproduce the existing general requirement to seek the views of interested persons. Its express safeguards are limited to owner agreement for certain privately vested roads and seeking family or descendant views for commemorative names.

AINT does not oppose genuinely administrative streamlining. However, ‘low-risk’ is not a statutory risk test in the Bill. Roads and public parks or gardens are routed by asset category even where a proposed Aboriginal name, the place itself or the surrounding Country carries cultural, linguistic or historical significance.⁷⁶

⁷⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 15 September 2026, p. 6.

⁷⁵ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 9.

⁷⁶ Aboriginal Investment NT (AINT), Submission No. 6, pp. 7-8.

- 3.87 As noted by AINT, the Department advised during the public briefing that consultation and the views of interested persons would no longer be required for 'low-risk' place names,⁷⁷ but would still be required where proposed names involved Indigenous names or related to Indigenous land.⁷⁸ However, as AINT pointed out this:

assurance is not expressed in proposed section 10A. Important protection of Aboriginal authority should appear in the Act, not depend on administrative practice, guidelines or an individual Surveyor-General's decision to refer a matter to the Committee.⁷⁹

- 3.88 In response to the Committee's queries, the Department clarified that:

Neither the current Act nor the Bill prescribes consultation that is specific to Aboriginal place names. the nearest statutory requirements are section 9(4)(b) (the relevant land Council, for places outside a local government area) and section 9(4)(c) (an organisation required to be consulted under an agreement with the Territory that includes place naming provisions).

Under the current Act, consultation with traditional owners and relevant language groups occurs as a matter of long-standing policy and practice, supported by the Committee's ability under section 9(1A)(b) and (1AB) to seek the views from any person it considers appropriate. For example, extensive consultation was undertaken with Larrakia on the naming of Garamilla Boulevard, which is within the City of Darwin local government area.

The Bill does not alter this position. consultation on Aboriginal names will continue on the same basis as it does now. Proposals involving Aboriginal names will be referred by the Surveyor-General to the Committee under section 10A(2) where they relate to a road, park or garden, so that the section 9(1A) process and the established practice of consulting traditional owners apply. This will be reflected in the place naming guidelines.⁸⁰

Committee's Comments

- 3.89 While acknowledging the concerns raised by AINT, the Committee is satisfied with the Department's advice and clarification. In addition to the *Guidelines for NT place naming*, the Committee notes that, where relevant, the Place Names Committee's deliberations have regard to the *Australian Standard for rural and urban addressing* and the *Australian Place Naming Principles*, 'including in respect of the selection, language, spelling, characteristic and depiction requirements for place names'.⁸¹

Delegation

- 3.90 As noted in the Explanatory Statement, clause 55 seeks to amend section 11A to:

provide for the Minister to delegate powers to both the Chairperson of the Committee and to the Surveyor-General to approve recommendations subject to a report or advice, relative to either low-risk or complex place names.

⁷⁷ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

⁷⁸ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 7.

⁷⁹ AINT, Submission No. 6, p. 8.

⁸⁰ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 15 September 2026, p. 7.

⁸¹ Place Names Committee, *Guidelines for NT place naming*, <https://environment.nt.gov.au/boards-committees/place-names-committee/guidelines>

Delegation to the Chairperson of the Committee remains restricted by section 11A(2) and section 11A(2)(b) and (f) (and corresponding note) are removed as they relate to low-risk place names for which the Minister's powers can be delegated to the Surveyor-General rather than the Committee.⁸²

3.91 Justin Tutty and LC noted that while delegation to the Chairperson of the Place Names Committee remains restricted by section 11A(2), no restrictions apply in relation to the delegation powers afforded to the Surveyor-General. As such, as currently drafted, the Surveyor-General may both recommend and approve low-risk place names.⁸³

3.92 In response to the Committee's queries, the Department clarified that:

Should the Bill be passed, the Place Names unit would continue to assess all submissions against the guidelines and requirements under the Act, and would then either make a recommendation through the Senior Director Land Information to the Surveyor-General or to the Committee for consideration to make a recommendation to the Minister. Should the Minister delegate powers to the Surveyor-General to approve low-risk submissions, the Surveyor-General would then consider the assessment and recommendation and could then approve the naming, rather than making a recommendation to the Minister to approve.⁸⁴

Committee's Comments

3.93 The Committee is satisfied with the Department's advice.

Amendment of *Planning Act 1999*

3.94 As noted in the public briefing, the proposed amendments to the *Planning Act 1999* (Planning Act):

do not alter the functional purpose and objectives of the Act or the planning framework; instead, amendments seek to address current process inefficiencies and remove unnecessary red tape, whilst ensuring necessary safeguards and regulatory powers are effective.⁸⁵

Submissions and hearing

3.95 Clause 61 seeks to amend sections 22(6) and (7) and repeals sections 22(8) and (9). As noted in the Explanatory Statement:

The sections set out the NT Planning Commission's obligations if it receives a submission about a planning scheme amendment or exceptional development permit on behalf of the Minister.

The change expands the criteria under which the Commission determines whether to hold a hearing. The change provides a more certain process by reducing the Commission's obligations, including the requirement to notify submitters of the intention not to hold a hearing, to provide a submitter with a

⁸² Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, pp. 9-10.

⁸³ Justin Tutty, Submission No. 1, p. 3; LC, Submission No. 4, p. 10.

⁸⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Building Act 1993, Building Regulations 1993, and Place Names Act 1967*, (unpublished), 15 September 2026, p. 1.

⁸⁵ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

reasonable opportunity to respond to this notification and the need to consider any responses received.⁸⁶

- 3.96 However, Justin Tutty noted that the Explanatory Statement fails to adequately convey the effect of the proposed amendments. For example, it was noted that it fails to disclose the fact that:

current section 22(9) – “*the Commission ... must invite the local government council and each person or body who made a submission to appear at the hearing and be heard*” is also deleted, replaced by “*the Commission may invite any person or body who made a submission*” (new s 22(7)). The guaranteed invitation becomes a discretion with no stated section criteria.⁸⁷

- 3.97 LC expressed concern that this clause removes the protections in favour of local government currently provided in sections 22(7), (8), and (9):

S.22(7) and (8) are the only means by which council learns that its submission on a planning scheme amendment will not be tested at a hearing, and the only opportunity Council has to put forward material before that decision becomes final. The Department's evidence at the public briefing was that the requirement can cause delay where a single party or a small number of submissions is involved. Council does not accept that abolition is the proportionate response to that concern. The delay the Department describes arises from the obligation to notify and hear from every submitter. It does not arise from notifying the council for the area, of which there is only ever one.

S.22(9) is Council's entitlement to appear. Its removal was not identified at the public briefing and is not drawn out in the Explanatory Statement. Planning scheme amendments determine the future development pattern of the municipality and the infrastructure Council will be required to provide and maintain. Where Council has taken the step of lodging a submission on one, it should be entitled to appear at any hearing that is held.⁸⁸

- 3.98 AINT expressed similar concerns, noting that:

AINT recognises that not every submission warrants a formal hearing. However, removing notice, response and reconsideration rights and replacing the right of every submitter to attend a hearing once held with selective invitations, materially reduces transparency and procedural fairness. This is particularly significant where a submission raises Aboriginal cultural, community, land, water or economic interests that may not readily apparent from planning documentation or capable of being fully explained in writing.

The loss is difficult to reconcile with the Planning Act's existing objectives of appropriate public consultation, an accessible planning system, responsible use of land and water, conservation of places of cultural value, and fair and open decision-making (section 2A).⁸⁹

- 3.99 Noting that section 30N of the Planning Act (regarding concurrent applications) continues to require a hearing, invitation of every submitter and procedural fairness, AINT suggested that this section ‘provides a stronger and more appropriate model where Aboriginal interests are materially affected’.⁹⁰

⁸⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 10.

⁸⁷ Justin Tutty, Submission No. 1, p. 2.

⁸⁸ LC, Submission No. 4, p. 6.

⁸⁹ AINT, Submission No. 6, p. 3.

⁹⁰ AINT, Submission No. 6, p. 3.

3.100 The National Association of Women in Construction (NAWIC) noted that while they supported the ‘objective of proportionate, timely planning processes’,⁹¹ the Committee should satisfy itself that the proposed amendments:

preserve meaningful consideration of material stakeholder evidence and are supported by clear, consistently applied and transparent criteria for deciding whether to hold a hearing ...⁹²

3.101 In relation to NAIWC’s comments, Justin Tutty pointed out that:

the new hearing trigger in s 22(6)(b) is verbally wider than the current one (a hearing must be held where it “*would aid the Commission’s understanding [of issues raised in submissions] or provide further useful evidence or information*”), and the surviving s 22(10) still requires any hearing to be conducted with procedural fairness, which may constrain how invitations are selected in a given case.⁹³

3.102 In light of the above comments from submitters, clarification was sought from the Department regarding notification requirements where the Planning Commission determines not to hold a hearing, and the reason why provisions for concurrent applications differ from those applying to hearings regarding planning scheme amendments or exceptional development permits.

3.103 In response the Department advised that, despite the fact that the Planning Commission will no longer be required to notify submitters where it decides not to hold a hearing, the:

Commission’s operational business practices will be adjusted to incorporate notification to submitters and other relevant stakeholders, such as the local council and relevant service authorities, to close out this decision-making process.⁹⁴

3.104 With regard to the hearing process for concurrent applications, the Department noted that:

A concurrent application combines a development application and a planning scheme amendment proposal into a single process. It provides a mechanism under the *Planning Act 1999* that allows for more efficient dealings for certain planning proposals (for example, it provides for a combined statutory exhibition period and for preliminary decisions to be made). However, the process also comes with increased complexity. For this reason, changes to the concurrent process (including current hearing processes) were considered too complex to be included in an omnibus bill and would be better deferred until we have an opportunity for more significant reforms to this process.⁹⁵

Committee’s Comments

3.105 While the Committee understands that the proposed amendments to the Planning Act seek to address current process inefficiencies and remove unnecessary red tape, it nevertheless acknowledges the important role local government councils play in

⁹¹ NAIWC, Submission No. 3, p. 4.

⁹² NAIWC, Submission No. 3, p. 5.

⁹³ Justin Tutty, Submission No. 1, p. 2.

⁹⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, pp. 2-3.

⁹⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 16 September 2026, p. 1.

relation to the consideration of planning scheme amendments and exceptional development permits. As such, the Committee is of the view that if a local government council makes a submission, and the Commission decides to conduct a hearing, the council's right to appear before the Commission and be heard on the proposal should be retained.

Recommendation 8

The Committee recommends that the Bill be amended to provide that section 22 of the *Planning Act 1999* retains a requirement whereby:

If the Commission conducts a hearing, it must invite the local government council who made a submission to appear at the hearing and be heard in relation to the proposal.

Minister's consideration of and action on amendment of planning scheme

3.106 Clause 60 seeks to amend section 13(1)(b) to 'ensure that the strategic framework, which includes various parts and documents, remains a relevant consideration for all requests to amend a planning scheme.' Clause 62 seeks to amend section 25(2)(b) to align with the changes at section 13(1)(b). Clause 63 then seeks to amend section 30D(4A)(b) to align with the clause 60 and 62 amendments to 'ensure that the strategic framework, including its various parts, remains a relevant consideration for all concurrent applications'.⁹⁶

3.107 LC noted that the proposed amendments make 2 changes to each of the existing provisions:

The first is a change from whether a proposed amendment is 'contrary to' the strategic framework to whether it is 'consistent with' it. That raises the bar and Council supports it.

The second narrows the test to 'the parts of the strategic framework in the planning scheme that are relevant to the amendment.' Council does not support the narrowing. The strategic framework applying to Litchfield includes the Litchfield Subregional Land Use Plan, and its provisions on rural residential character, water resources and infrastructure sequencing that should be engaged by any rezoning in the municipality, whether or not a proponent characterises them as relevant to the amendment sought. As drafted, the provision permits a selective reading of the framework and offers no means of testing the selection.⁹⁷

3.108 LC subsequently recommended that:

'relevant to the amendment' be expressed to include any part of the strategic framework relevant to the land or to the use proposed; and that the decision-maker be required to identify in the reasons for decision which parts of the strategic framework were treated as relevant and why.⁹⁸

3.109 In response to LC's suggestion that the proposed amendments serve to narrow the consideration of the strategic framework, the Department advised that:

⁹⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 11.

⁹⁷ LC, Submission No. 4, p. 8.

⁹⁸ LC, Submission No. 4, p. 8.

This is not correct, the recommendation by the Council that ‘relevant to the amendment’ be expressed to include any part of the strategic framework relevant to the ‘land or to the issue proposed’ would actually narrow consideration more than as currently drafted, potentially limiting consideration of the established hierarchy in the strategic framework, including its land use plans and the strategic policies.

The amendments in the Bill broaden the current criteria to ensure that the strategic framework is a relevant consideration to all planning scheme amendment proposals, ensuring that long-term planning is considered as part of all amendment decisions.

This will address the limits that currently exist with the Act, that are interpreted to exclude consideration of whether a planning scheme amendment is contrary to the strategic framework if the proposal seeks to amend the strategic framework simultaneously. ...

Except for the highest-level strategic planning policies, all other strategic framework documents are geographically based (i.e. relevant to specific areas of land). This means that it is already clear which documents are relevant to a piece of land or issue without having to further limit consideration to being ‘relevant to the land or the issue proposed.’ as is suggested in the submission.⁹⁹

3.110 With regard to LC’s recommendation that the decision-maker should be required to identify in the reasons for the decision which parts of the strategic framework were considered relevant and why, the Department noted that:

the Act already establishes that the minister must provide written notice of decisions on planning scheme amendments. The formulation of the written notice typically reflects criteria under Section 25(2) which must be considered when deciding a proposal, including relevant consideration of the strategic framework. Under the Act the minister must provide the reasons for the decision and make them available to the public, which includes online publication.¹⁰⁰

Committee’s Comments

3.111 The Committee is satisfied with the Department’s advice.

Exceptional development permits

3.112 As noted in the Explanatory Statement, clause 66 seeks to amend section 39(1)(b) to:

enable consideration of whether an application for an exceptional development permit is not so significant as to require statutory exhibition, by removing the limitation that this may only be considered for a variation to an exceptional development permit.¹⁰¹

3.113 Concern was raised by AINT that the proposed amendment represents:

a substantial expansion of the circumstances in which development outside the ordinary planning rules may proceed without public notice, submissions, consultation or a hearing.

⁹⁹ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, pp. 1-2.

¹⁰⁰ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 3.

¹⁰¹ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 11.

Public exhibition can be an important mechanism for Aboriginal organisations and communities to become aware of proposed developments and determine whether they may affect their interests.¹⁰²

3.114 In opposing the amendment, LC noted that:

The effect is that the Minister may decide that an application for the grant of a new exceptional development permit is not so significant as to require exhibition. Exhibition is the trigger for Part 2, divisions 3, 4 and 5 under S.59(3). Without exhibition there is no public notice, no submission right under S.22, no report to the Minister under S.24, no notice to Council and no hearing. ...

It is the most consequential form of approval available under the Act and one for which the case for public and local government scrutiny is strongest. The Bill would allow it to be granted with no external involvement at all.

The Explanatory Statement describes Clause 66 as enabling a significance assessment for initial exceptional development permits, previously limited to variations. Council submits that this does not convey the effect of the amendment.¹⁰³

3.115 Noting that the term 'not so significant' is not defined in either the Bill or the Planning Act, AINT also expressed concern that:

clause 66 provides no statutory criteria, notification requirement, reasons requirement or review mechanism. Significance must not be assessed solely by reference to the scale or technical characteristics of a development. A proposal may be relatively small in physical or economic terms but nevertheless have significant consequences for Aboriginal culture, land, waters, communities or economic opportunity.

This is particularly relevant in the Northern Territory, where development can occur on or near Aboriginal land, sacred sites, waterways, coastal Country, Aboriginal communities and places with cultural significance not apparent from planning records.¹⁰⁴

3.116 Given the concerns raised, the Committee sought advice from the Department regarding whether any consideration was given to including a definition of the term 'not so significant' or prescribing criteria for the 'not so significant' test. The Department subsequently advised as follows:

The reform was focussed on providing greater flexibility for Exceptional Development Permit decisions in the same way that can already occur at sections 11, 12, 13, 27 and 30T for Planning Scheme Amendment (rezoning) applications and Concurrent Applications. As a decision on whether a proposal is 'not so significant as to require statutory exhibition' is already embedded in the legislation and a decision-making authority that is exercised often, it was not considered necessary to make broader changes, such as including a definition or criteria, that would have an impact across the Act.

The current test requires the decision maker to exercise judgement and distinguish between applications that warrant statutory exhibition and those that are unlikely to affect the broader community. Some degree of subjective assessment is common and unavoidable given the subject matter.

Introduction of a more prescriptive test, definition or criteria runs the risk that the test is too limited given the broad range of matters contained within planning proposals under the Act. It may also create unintended outcomes by requiring

¹⁰² AINT, Submission No. 6, p. 4.

¹⁰³ LC, Submission No. 4, p. 5.

¹⁰⁴ AINT, Submission No. 6, p. 4; see also Justin Tutty, Submission No. 1, pp. 1-2.

exhibition of otherwise low-impact proposals or conversely exempting proposals that raised genuine concerns but avoid exhibition because they are able to satisfy a technical requirement.

For example, consideration of the level of existing documented community support for a proposal (e.g. extensive community consultation already undertaken), relevant landowner authorisation, the remoteness or isolation of a particular site, limited value in use of standard notification methods (such as notices on a property, letters to relevant stakeholders, internet publication or newspaper notice), consistency with relevant long-term planning policy, and the minor nature of works (such as existing, internal or otherwise low-risk building works) are commonly considered in determining whether an application is 'not so significant' as to warrant statutory exhibition. In some cases, these circumstances will collectively justify a proposal being 'not so significant' and in other cases, it may be isolated to a single reason such as the need for Government to act urgently in response to an emergency situation.

The complexity of drafting an effective definition that covers all circumstances, that would apply to all other similar decision points under the Act and that could provide sufficient certainty to be more effective than the current test may be challenging.¹⁰⁵

- 3.117 Section 40 of the Planning Act provides for the grant or variation of an exceptional development permit or refusal to grant or vary an exceptional development permit. However, as noted by Justin Tutty, neither the Planning Act nor the Bill as currently drafted provide for the grant or refusal to grant a permit for an exceptional development proposal that has not been on exhibition, other than a proposal to vary an exceptional development permit as set out in section 40(4).

Committee's Comments

- 3.118 While acknowledging the concerns of submitters, the Committee is satisfied with the Department's clarification regarding the issues associated with prescribing criteria for the 'not so significant' test as it relates to exceptional development proposals.
- 3.119 As highlighted by Justin Tutty, the Committee agrees that a consequential amendment to section 40 is required to provide the necessary mechanism to grant or refuse to grant a permit for an exceptional development proposal that has not been on exhibition and does not relate to a proposal to vary an exceptional development permit.

Recommendation 9

The Committee recommends that the Bill be amended to include a consequential amendment to section 40 of the *Planning Act 1999* to provide that where the Minister has decided under proposed section 39(1)(b) that a proposal for an exceptional development permit is not so significant as to require exhibition, the Minister must:

- (a) grant a permit in accordance with the proposal; or**

¹⁰⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, pp. 2-3.

- (b) alter the proposal and grant a permit in accordance with the altered proposal; or
- (c) refuse to grant a permit.

Notice to local government council of development application

3.120 Clause 67 seeks to make a minor administrative drafting amendment to section 48(3) to clarify that the written notice referred to is the written notice required under subsection (1).¹⁰⁶ However, LC pointed out that while presented as a drafting clarification:

Its effect is to confirm and entrench an existing gap in Council's notice rights, and Council does not support it proceeding on its own.

In practice an applicant obtains a completed Council form at pre-lodgement, on a concept. The application lodged some months later may differ from the concept the form addressed. Because the form is attached, Council receives no notice of the application as lodged and no invitation to make a submissions under S.49(3). Council's participation is fixed at the point of the earliest and least informed engagement it has with the proposal, and Council has no means of knowing that the proposal has changed.

If the Bill is to put the operation of S.48(3) beyond doubt, Council submits that it should do so on terms that make the provision workable.¹⁰⁷

3.121 In response to the Committee's queries, the Department advised that this clause relates to amendments previously made through the Lands, Planning and Environment Legislation Amendment Bill 2025. As such,

the current amendment is a consequential change identified through drafting and is merely intended to improve operation of section 48(3). The recommendation of LC is therefore beyond the scope of the current Bill.¹⁰⁸

Committee's Comments

3.122 While acknowledging the concern raised by LC, the Committee understands that consideration of the recommendations proposed by LC is beyond the scope of the current Bill and would require further consultation with relevant stakeholders.

Evidence and information

3.123 As set out in the Explanatory Statement, clause 69 seeks to amend sections 50(1), (2), and (3) and establishes the consent authority's obligations where it receives a submission regarding a development application pursuant to section 49. As such, it provides:

criteria for the consent authority to consider, including whether holding a meeting in relation to the application would aid its understanding of issues in submissions or provide further useful information, and , if it decides a meeting should be held,

¹⁰⁶ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 11.

¹⁰⁷ LC, Submission No. 4, p. 7.

¹⁰⁸ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 3.

to hold the meeting. It provides new criteria to guide decisions about when meetings about development applications should be held.

It also provides for the Minister to appoint a person or body to hold a meeting on the Minister's behalf when the Minister is the consent authority, rather than to receive evidence and information. At subsection (6), clarification is provided about what constitutes a 'relevant entity' which is new terminology used at subsection (1).¹⁰⁹

3.124 As such, the clause 69 amendments align with those proposed in clause 61 regarding NT Planning Commission processes in considering Planning Scheme Amendments and Exceptional Development Permits.

3.125 While acknowledging the need for proportionate decision-making, AINT raised concerns that the proposed approach:

provides no Aboriginal-interest trigger, notice requirement, reasons requirement or reconsideration process.

For Aboriginal organisations and communities, a written submission may not always be sufficient to convey:

- cultural knowledge;
- local community impacts;
- Traditional Owner perspectives;
- the significance of particular places or areas; or
- the potential economic consequences of a proposal.

The ability to provide evidence orally, through an appropriate representative or interpreter, and to respond to issues raised by a development proposal can therefore be particularly important.¹¹⁰

3.126 Given the above, AINT were of the view that clause 69 should be amended to:

require a meeting where a submission raises a material Aboriginal cultural, community, land, water or economic interest, unless the affected Traditional Owner or representative Aboriginal body agrees in writing that a meeting is unnecessary. Every Aboriginal submitter raising such an interest should be invited to attend and give evidence.

Where a meeting is not held, affected submitters should receive written reasons and a reasonable opportunity to request reconsideration. Meetings should be capable of occurring on Country, remotely, through an interpreter or in another culturally appropriate form.¹¹¹

3.127 In a similar vein, LC noted that this clause was of particular concern as it repeals the mandatory entitlement set out in section 50(2) of the Planning Act which currently provides that 'if a local government council makes a submission in accordance with section 49(3), the consent authority must invite a representative of the council to appear before it and give evidence in relation to the development.' As LC pointed out, this provision is the:

¹⁰⁹ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, pp. 11-12.

¹⁰⁹ LC, Submission No. 4, p. 8.

¹¹⁰ AINT, Submission No. 6, p. 5.

¹¹¹ AINT, Submission No. 6, p. 5.

mechanism by which Council places evidence about local roads, traffic, drainage, stormwater capacity, infrastructure, servicing and local amenity before the Development Consent Authority – evidence that council holds and that no other participant in the process holds. ...

Council does not accept that this [amendment] is red tape reduction. It is the removal of a right. Council is not a member of the public who has made a submission. It is the authority in which the road, drain and the reserve will vest under S.64 once the development is built, and which will be asked by residents to remedy what the approval did not address. Removing the one point in the process at which Council can be questioned, and can answer, reduces the quality of the information available to the decision-maker and does so in the class of matter where Council's information is least replaceable. ...

Council accepts that a consent authority should not be obliged to convene a meeting on every application in which any submission is received. That objective is met by confining the obligation to submissions made by a local government council, not by abolishing it.¹¹²

3.128 LC subsequently recommended that clause 69 be amended to either:

- (a) retain an entitlement specific to local government such that if a submission is made under section 49(3), the consent authority must hold a meeting and invite a representative from the council to attend and give evidence; or
- (b) require that where the relevant entity decides not to hold a meeting or decides not to invite a council that has made a submission, it must notify the council of the decision and the reasons for it in writing before the application is determined and provide the council with an opportunity to make a further written submission in response.¹¹³

3.129 However, as the Department pointed out, amending clause 69 to require the relevant entity to notify submitters, such as local government or Aboriginal organisations, of the decision not to hold a meeting or not to invite them to provide evidence and provide submitters with an opportunity to respond before the application is determined would 'contribute multiple weeks to the assessment process.'¹¹⁴

3.130 Moreover, it is noted that such an amendment to clause 69 reflects the current NT Planning Commission process when considering Planning Scheme Amendments and Exceptional Development Permits which, as mentioned previously, is the subject of the clause 61 amendment in the Bill. As the Department advised, the current NT Planning Commission process is:

viewed as problematic given the time required to allow further responses after a decision has been made not to hold a hearing. This current process is contributing to significantly longer timeframes and in some cases can allow a single party to unnecessarily delay determination of an application.¹¹⁵

3.131 The Department further noted that:

¹¹² LC, Submission No. 4, pp. 4-5.

¹¹³ LC, Submission No. 4, p. 5.

¹¹⁴ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 3.

¹¹⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 3.

Planning Ministers across Australia have committed to ongoing planning reforms as part of measures to improve housing supply and affordability. Any change that would significantly increase timeframes for consideration of development applications, including those linked to housing supply, would be inconsistent with such commitments and would likely have broader impacts beyond the planning process.¹¹⁶

Committee's Comments

- 3.132 As noted by the Department in briefing the Committee on the Bill, the proposed amendments seek to streamline the assessment process and 'more closely align the Planning Commission and Development Consent Authority statutory hearing and meeting processes.'¹¹⁷ Given that the recommendations put forward by AINT would significantly increase the obligations of the consent authority and would not align with the amended provisions regarding the Planning Commission's statutory hearing processes, the majority of the Committee is of the view that they are beyond the scope of the current Bill and would require further consultation with relevant stakeholders.
- 3.133 In relation to the concerns raised by LC, the Committee acknowledges that local government authorities play an important role in the provision of information relevant to the assessment of development applications, that may well not be readily available from other sources. While not wishing to unnecessarily extend the timeframe for the consideration of development applications, the Committee is of the view that the Bill should be amended to retain the requirement in relation to local government councils as set out in section 50(2) of the Planning Act. The Committee further notes that the following recommendation is also consistent with its recommendation regarding the clause 61 amendment to section 22(9).

Recommendation 10

The Committee recommends that clause 69 of the Bill be amended to retain section 50(2) of the *Planning Act 1999*, which provides that:

- (2) If a local government council makes a submission in accordance with section 49(3), the consent authority must invite a representative of the council to appear before it and give evidence in relation to the development application.**

Show cause process

- 3.134 As noted in the Explanatory Statement, clause 71 seeks to amend section 77A(3) by removing the reference to 20 'business' days as the relevant measure of time that a person has in which to respond to a show cause notice and replaces it with 20

¹¹⁶ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 3.

¹¹⁷ Department of Lands, Planning and Environment, Committee Transcript, Public Briefing, 31 August 2026, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 4.

‘calendar’ days.¹¹⁸ A number of submitters raised concern that this change significantly reduces the response timeframe available to a person.

3.135 For example, LC noted that:

reducing the minimum show cause period from 20 business days to 20 [calendar] days shortens the period for response from approximately four weeks to under three. Council supports prompt enforcement action but does not support achieving it by reducing procedural fairness. Recipients in Litchfield are frequently individual rural landowners without ready access to planning or legal advice.¹¹⁹

3.136 Similarly, AINT noted that the proposed reduction ‘may be significant for people in remote communities who require advice, language support, travel or collective decision-making before responding.’¹²⁰ Justin Tutty also pointed out that the amendment ‘shortens the pre-issue protection by roughly a third, and by more across holiday periods.’¹²¹

3.137 In response to the Committee’s queries, the Department advised that:

Due to the nature of land use planning enforcement matters, prompt action is necessary to avoid worsening non-compliance or significant disruption to the amenity of an area. Such contravention can include, for example, unauthorised operation of a motor repair station or motor body works in residential areas, industrial-related businesses operating from rural premises and unauthorised clearing of sensitive native vegetation. The shorter timeframe was considered reasonable given the potential cumulative impact that unauthorised use or development can have if left unaddressed.¹²²

Committee's Comments

3.138 While the Committee acknowledges the importance of prompt enforcement action of regulatory breaches, it also notes that it is equally important to ensure that an appropriate level of procedural fairness is maintained. As highlighted by submitters, the proposed amendment reduces the show cause response period by approximately a third and is further reduced where a notice is issued ahead of public holidays.

3.139 Given that government departments generally close down between Christmas and New Year, the Committee is particularly concerned that where show cause notices are issued at this time of year the timeframe within which a person can access planning or legal advice is effectively reduced by another 6 days. As such, the Committee notes that under the proposed amendment the response timeframe has been reduced from 20 business days to 14 business days, and down to 8 business days where the show cause notice takes in the Christmas/New Year period.

3.140 The Committee is of the view that a more appropriate balance needs to be struck between prompt enforcement action and procedural fairness. The Committee

¹¹⁸ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 12.

¹¹⁹ LC, Submission No. 4, p. 8.

¹²⁰ AINT, Submission No. 6, p. 7.

¹²¹ Justin Tutty, Submission No. 1, p. 3.

¹²² Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 4.

therefore recommends that the Bill be amended to provide a show cause response period of no less than 28 calendar days.

Recommendation 11

The Committee recommends that section 77A(3) of the *Planning Act 1999* be amended to omit ‘20 business days’ and insert ‘28 days’.

Transitional Arrangements

3.141 Clause 79 seeks to insert new sections 220 and 221 into the Planning Act to outline transitional arrangements for the commencement of the *Lands and Planning Legislation Amendment (Red Tape Reduction) Act 2026*.¹²³

3.142 Concern was raised by AINT, LC and Justin Tutty regarding the application of transitional arrangements to section 22 as amended by section 61 of the Bill, sections 38 and 39 as amended by sections 65 and 66 of the Bill, and section 50 as amended by section 69 of the Bill. As noted by Justin Tutty:

New section 221(2) applies the reduced section 22 to a submission “*made under that section before the commencement if the Commission had not made a decision whether to conduct a hearing in relation to the submission before the commencement*”, and new section 221(8) does the same where a submission was made to a development application under section 49 but no section 50 meeting had been held before commencement. People who lodged submissions under the current law, relying on the entitlements it gives them, lose those entitlements mid-process. The reach-back is not limited to submissions: new section 221(7) applies the amended exhibition provisions to an application for an original permit lodged before commencement but not yet decided, so a proposal the public expected to see exhibited can have exhibition dispensed with mid-process.¹²⁴

3.143 The Department advised that the transitional arrangements take into account the fact that:

whilst most planning applications are processed within reasonable timeframes, it is not unusual for some planning applications to be in the system for an extended period of time. It is common for decision-makers to seek further information in relation to a planning proposal. This might be as a result of a technical issue that needs to be resolved, the inadequacy of application materials submitted, or changes required in response to submissions or service authority requirements. While the consent authority can typically attach response timeframes to these requests, there are applications that continue to be held in the system for multiple years before the necessary information is provided to an acceptable standard.

The transitional arrangements were crafted with this in mind, recognising that the amendments made through the Bill should apply equally, subject to the stage an application has reached in the assessment process.¹²⁵

¹²³ Explanatory Statement, *Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026*, <https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>, p. 13.

¹²⁴ Justin Tutty, Submission No. 1, p. 2; see also LC, Submission No. 4, p. 9; AINT, Submission No. 6, p. 6.

¹²⁵ Department of Lands, Planning and Environment, *Clarification and advice regarding amendments to the Planning Act 1999*, (unpublished), 25 September 2026, p. 4.

Committee's Comments

- 3.144 Given the Department's advice, the Committee is satisfied that having different provisions in place depending on when submissions or planning applications were lodged could become administratively burdensome for both the Department and submitters and would likely be both unworkable and confusing. As such, it does not consider that any amendments to the transitional arrangements as drafted are necessary.

Appendix 1: Submissions Received

Submissions Received

1. Justin Tutty
2. Northern Territory Planning Commission
3. National Association of Women in Construction
4. Litchfield Council
5. Australian Institute of Building Surveyors
6. Aboriginal Investment NT
7. Northern Territory Building Practitioners Board
8. Northern Territory Building Advisory Committee
9. Local Building Surveyors of the Northern Territory
10. MOB Building Certifiers Pty Ltd

Note: Copies of submissions are available at:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>.

Appendix 2: Public Briefing

Darwin – 31 August 2026

Department of Lands, Planning and Environment

- Jennifer Harlock: Executive Director Planning
- Sally Graetz: Director Lands Planning
- Mark Meldrum: Executive Director Land Services
- Dawna Turner: Director Land Services Reform

Note: Copies of the public briefing transcript are available at:

<https://parliament.nt.gov.au/committees/list/legislative-scrutiny-committee/77-2026>.

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Dissenting Report – Justine Davis MLA

Justine Davis MLA

Independent Member for Johnston

Alawa - Jingili - Millner - Moil

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6/10/2026

Inquiry into the Lands and Planning Legislation Amendment (Red Tape Reduction) Bill 2026
(Serial 77)

Dissenting Note : Justine Davis MLA, Independent Member for Johnston

I support the whole committee report but provide this dissenting note to in relation to Recommendation 8 which I support but believe does not go far enough.

I support rCouncils should keeping their right to be invited to a Planning Commission hearing. I dissent for two reasons. Recommendation 8 protects councils and leaves out Aboriginal organisations. And the Committee found itself “satisfied” with the Place Names Act amendments, which leave Aboriginal naming protections to guidelines.

Recommendation 8 protects councils. Aboriginal organisations need the same protection.

Clause 61 removes the requirement that the Commission invite every submitter to a hearing. It replaces it with a discretion with no criteria. The Committee decided this went too far for councils, acknowledging “the important role local government councils play” in planning decisions.

Aboriginal Investment NT (AINT) made the same argument for Aboriginal organisations. It said that removing the right to attend a hearing and replacing it with “selective invitations, materially reduces transparency and procedural fairness.” It asked the Committee to keep the right to be invited for all submitters, and to require a hearing where a submission raises a material Aboriginal interest. The Committee’s comments do not mention this request. No recommendation was made.

Why Aboriginal organisations belong in Recommendation 8

The Committee protected councils because they have a direct stake in planning decisions and chose to make a submission. Traditional Owner bodies and land councils are in the same position. Planning scheme amendments and exceptional development permits decide what happens on Country, near sacred sites and on waterways. A body that has taken the step of making a submission on those decisions should be heard if a hearing is held.

AINT told the Committee that “a written submission may not always be sufficient to convey cultural knowledge; local community impacts; Traditional Owner perspectives; the significance of particular places or areas.” It said the ability to give evidence “orally, through an appropriate representative or interpreter” is particularly important. Under the Bill, whether that evidence is heard depends on the Commission’s discretion.

AINT said a proposal may be small in physical or economic terms yet have major consequences for Aboriginal culture, land and waters. It pointed to “places with cultural significance not apparent from planning records.” A decision-maker working from the record alone may not know who to invite.



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The Department said the current rules cause delay where a single party or a few submissions are involved. Litchfield Council answered that the delay “does not arise from notifying the council for the area, of which there is only ever one.” The same holds for my amendment. It applies only to Aboriginal organisations that made a submission raising a material interest. That is a small, identifiable group.

Section 30N keeps the hearing, the invitation to every submitter and procedural fairness. AINT called it “a stronger and more appropriate model where Aboriginal interests are materially affected.” The Department explained why it left section 30N alone: concurrent applications were “too complex to be included in an omnibus bill.” It did not explain why section 22 should offer less.

The Department said the Commission’s “operational business practices will be adjusted to incorporate notification to submitters and other relevant stakeholders, such as the local council and relevant service authorities.” Aboriginal organisations are not on that list. Business practices can change without Parliament. The Planning Act’s own objectives include fair and open decision-making and conserving places of cultural value (section 2A). The Committee’s scrutiny criteria ask whether a bill has sufficient regard to Aboriginal and Torres Strait Islander tradition. This Bill does not meet that test without the amendment below.

Aboriginal place names should be protected in the Act, not in a guideline

Proposed section 10A lets the Surveyor-General report on roads, parks and gardens without seeking the views of interested persons. Section 9 requires that consultation today. “Low-risk,” as AINT noted, “is not a statutory risk test in the Bill.” Roads and parks are routed by category, even where the name or the Country carries cultural or linguistic significance.

The Department said Aboriginal names would be referred to the Place Names Committee. That promise is not in the Bill. The Department confirmed that “neither the current Act nor the Bill prescribes consultation that is specific to Aboriginal place names,” and said the arrangement “will be reflected in the place naming guidelines.” Referral is at the Surveyor-General’s discretion, with no trigger. AINT put the principle clearly: *“Important protection of Aboriginal authority should appear in the Act, not depend on administrative practice, guidelines or an individual Surveyor-General’s decision to refer a matter to the Committee.”* The Committee’s response was to say it was “satisfied with the Department’s advice and clarification.”

Two further problems remain. Under clause 55 the Minister may delegate approval to the Surveyor-General, who already makes the recommendation, so “the Surveyor-General may both recommend and approve.” The Chairperson’s delegation is restricted. The Surveyor-General’s is not. And section 10A(3) requires owner agreement for private roads but not for roads vested in a council. Litchfield Council said it “can identify no policy basis for that result.”

Justine Davis MLA

Independent Member for Johnston

Alawa - Jingili - Millner - Moil

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What I propose

Recommendation 8, as I would amend it

That the Bill be amended to provide that section 22 of the Planning Act 1999 retains a requirement whereby:

- (a) if the Commission conducts a hearing, it must invite the local government council that made a submission, and each Aboriginal organisation that made a submission raising a material Aboriginal land, Country, water, community, cultural or economic interest, to appear and be heard; and
- (b) if the Commission decides not to hold a hearing, it must notify that council and those Aboriginal organisations, give written reasons, and allow a reasonable opportunity to respond before the decision is final.

New recommendation: Place Names Act 1967

That the Bill be amended so that:

- (a) new section 10A requires the Surveyor-General to refer to the Place Names Committee any proposal involving an Aboriginal or Torres Strait Islander name, or a place on Aboriginal land or Country;
- (b) the Committee must consult the relevant land council, any organisation named in an agreement with the Territory, and the relevant Traditional Owner or language group body, and report their views to the Minister;
- (c) the Minister's delegation to the Surveyor-General under section 11A cannot extend to names so referred; and
- (d) a road vested in a council cannot be named or renamed without that council's agreement.

Faster naming in new subdivisions, where the Department says most proposals arise, is a fair aim. Neither amendment stops the intent of the bill in reducing red tape. They make sure that when a decision touches Aboriginal land, culture or authority, the right people are heard, and that the Act, not a guideline, guarantees it. The Committee has already accepted the principle for councils. I ask the Assembly to apply it to Aboriginal organisations.

Justine Davis MLA

Independent Member for Johnston | October 2026